

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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HIPOLITO and BERTHA NEVAREZ
Plaintiffs,

v.

WELLS FARGO; et al.,
Defendants.

3:12-cv-0020-LRH-VPC

ORDER

Before the court is defendants' motion to dismiss. Doc. #2.¹ Plaintiffs Hipolito and Bertha Nevarez ("the Nevarezes") did not file an opposition.

In November 2007, the Nevarezes refinanced real property through a mortgage note and deed of trust. The Nevarezes defaulted on the property and defendants initiated non-judicial foreclosure proceedings.

Subsequently, the Nevarezes filed a complaint against defendants. Doc. #1, Exhibit A. Thereafter, defendants filed the present motion to dismiss to which the Nevarezes did not respond. Doc. #2.

While the failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion under LR 7-2(d), the Nevarezes's

¹ Refers to the court's docket number.

1 failure to file an opposition, in and of itself, is an insufficient ground for dismissal. *See Ghazali v.*
2 *Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Before dismissing a case, a district court is required to
3 weigh several factors: (1) the public's interest in the expeditious resolution of litigation; (2) the
4 court's need to manage its docket; (3) the risk of prejudice to the defendant; 4) the public policy
5 favoring disposition of cases on their merits; and (5) the availability of less dramatic sanctions. *Id.*

6 Here, these factors weigh in favor of dismissal. The need for the expeditious resolution of
7 cases on the court's docket is strong. Defendants have an interest in resolving this matter in a
8 timely manner. Further, there is a lack of prejudice to the plaintiffs because the Nevarezes have
9 shown an unwillingness to continue litigating their complaint which weighs in favor of granting the
10 motion. Additionally, although public policy favors a resolution on the merits, the court finds that
11 dismissal is warranted in light of these other considerations.

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13 IT IS THEREFORE ORDERED that defendants' motion to dismiss (Doc. #2) is
14 GRANTED. Plaintiffs' complaint (Doc. #1, Exhibit A) is DISMISSED in its entirety.

15 IT IS SO ORDERED.

16 DATED this 17th day of May, 2012.



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19 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE